

EXHIBIT K

Civil Service Commission

TEXT ONLY:



PRINT:



TEXT SIZE:



All Appeals Procedures For Appellants

Procedures for Appeals and Requests for Hearing to the Civil Service Commission

(Also referred to as "Procedure One")

Applicability: These procedures apply to appeals and requests for hearing filed under the Rules covering Miscellaneous classifications and the Uniformed Ranks of the Police and Fire Departments. These procedures do not apply to Service-Critical Classes at the Municipal Transportation Agency (MTA). Refer to MTA Procedure One: Procedures for Appeals and Requests for Hearing to the Civil Service Commission

I. Purpose

These procedures are established to provide a consistent and uniform framework for the expeditious processing of appeals to, and requests for hearing before, the Civil Service Commission.

II. Appealable Matters

Unless the Civil Service Commission Rules specify that the decision of the Human Resources Director is final, decisions of the Human Resources Director may be appealed to the Civil Service Commission (Civil Service Commission Rule 05 Series, Section 05.12 or 111A Position-Based Testing).

III. Types of Appeals/Requests Covered

This memorandum outlines the appeal/request for hearing procedures for the following types of appeals/requests to the Civil Service Commission:

- Civil Service Commission Rules Application/Interpretation
- Discrimination Complaints
- Employee Compensation (very limited)
- Employee Separations/Releases
- Examinations (including background rejections)
- Position-Based Testing (CSC Rule 111A)
- Position Classifications
- Personal Services Contracts

IV. Notice to Appellants Required

In conveying final decisions of the Human Resources Director to appellants, unless the Civil Service Commission Rules specify that the decision of the Human Resources Director is final, appellants are to be notified in writing of their right under Civil Service Commission Rule 05 Series or Rule 111A Position-Based Testing, to appeal the Human Resources Director's action to the Civil Service Commission; of the deadline for filing the appeal with the Civil Service Commission; and the location where appeals may be filed.

V. Calculation of Deadline for an Appeal

In the event the final date for filing an appeal falls on a non-business day, the deadline is automatically extended to the close of business of the first business day following the final date for receipt of the appeal.

VI. Filing of Appeal or Request for Hearing - Acknowledgment and Transmittal

All appeals to or requests for hearing before the Civil Service Commission must be received in the Civil Service Commission Office by the deadline for filing an appeal as set forth in the Civil Service Commission Rules. Appeals and requests for hearing must be in writing or filed on the proper form (CSC-12 – *Appeal to the Civil Service Commission*) and signed by the appellant or authorized representative. A signed FAX received in the Civil Service Commission by the deadline for filing an appeal is acceptable; provided that, the original signed FAX is received in the Commission office in five (5) working days. **Electronic mail (e-mail) is not acceptable.**

When an *appeal* is received, the Executive Officer will, in writing, simultaneously notify the appellant of receipt of the Appeal (Attachment A) and transmit the appeal to the Human Resources Director (Attachment B). Appeals filed under Rule 111A Position-Based Testing will immediately be calendared for the next Civil Service Commission meeting (Attachment C). For all other appeals, a tentative target date for a Civil Service Commission hearing of approximately *sixty (60) days* for appeals from the date of the transmittal will be established. The appellant will not be advised of this target date.

When a *request for hearing or an appeal on recommendations restricting future employment or automatic resignation where the Civil Service Commission has full authority* is received, the Executive Officer will, in writing, simultaneously notify the appellant of receipt of the Appeal (Attachment D) and transmit the appeal/request to the Human Resources Director (Attachment E) for appropriate action. A tentative target date for a Civil Service Commission hearing of approximately *thirty (30) days* for separations/releases from the date of transmittal will be established. The requestor will not be advised of this target date.

VII. Action Request on Pending Appeal/ Request for Hearing

A. Appeals filed under Rule 111A Position-Based Testing:

Appeals filed under Rule 111A Position-Based Testing shall immediately be transmitted to the Human Resources Director upon receipt and placed on the next Civil Service Commission Meeting Agenda for resolution.

The Department of Human Resources shall forward to the Executive Officer, Civil Service Commission, documentation for consideration by the Civil Service Commission.

In the event the appeal is resolved by the Department of Human Resources staff, the Department of Human Resources staff will provide the Executive Officer, Civil Service Commission with the documented resolution prior to the scheduled Commission hearing date. The Executive Officer shall report the resolution to the Civil Service Commission at the scheduled meeting.

B. All Other Appeals/Requests for Hearing:

All appeals or requests for hearing will be transmitted to the Human Resources Director for appropriate follow-up and assigned a tentative date it will be placed on the Civil Service Commission Agenda. In the event of the following: the appeal/request is not timely; the matter is resolved by the Department of Human Resources staff; the tentative Civil Service Commission hearing date established by the Executive Officer is not feasible; the matter is not subject to appeal; or for some other reason; the Department of Human Resources or auxiliary staff must advise the Executive Officer to amend or close the file through the use of Civil Service Commission Form Number 13 - Action Request on Pending Appeal (Attachment F) with applicable documentation attached. A copy of Civil Service Commission Form 13 is to be sent simultaneously to the Human Resources Director. If appropriate, the Executive Officer will then take the requested action - such as closing the file, notifying the appellant/requestor, etc.

VIII. Pending Appeals Log (P.A.L.)

Within the first five (5) working days of each month, the Executive Officer will issue and send to the Human Resources Director and applicable departmental personnel a list of all active outstanding appeals and requests for hearing as of the last day of the previous month. This Pending Appeals Log (P.A.L.) assists in monitoring the processing of appeals.

Civil Service Commissioners also review the P.A.L. and often direct the Executive Officer to contact departments to report on the status of an appeal.

Should departments not respond to inquiries of long-standing appeals, the Executive Officer will calendar the appeal for a Civil Service Commission hearing. Should either party not appear at the hearing, the Civil Service Commission will rule on the appeal based on the materials submitted. Requests for postponement will be considered in accordance with Civil Service Commission procedures.

IX. Procedures for Noticing and Appealing Classification Actions

Appeals of proposed classification action received by the Human Resources Director during the posting period shall be processed in accordance with Civil Service Commission Rule 09 Series, Section 09.2, and acted upon by the Human Resources Director. The decision of the Human Resources Director may be appealed to the Civil Service Commission within thirty (30) calendar days following the postmarked mailing date of notification to the appellant, in accordance with the time frame established in Rule Series 05.12. The Commission's decision on the appeal is final.

X. Appeals/Hearings on Separations/Releases/Future Employability

A. General

When an appeal of a separation/release or a request for review of a recommendation for future employability is filed with the Civil Service Commission, the Executive Officer will notify the Human

Resources Director to forward the original file and nine (9) copies. The Executive Officer will schedule the matter for hearing and notify both the affected department and the former employee. Where no appeal/request is filed, the Department of Human Resources will prepare and distribute the *Notice of Final Administrative Action* with the *Notice of Separation From Employment* or *Notice of Automatic Resignation* and the *Separation Report* and enter the information into the *Register on Employment Restrictions*.

B. Release/Termination/Dismissal

In those instances for covered employees where the Civil Service Commission Rules provide a review by the Civil Service Commission upon release, termination, dismissal, or for future employability determination, the separated employee is entitled to a hearing before the Civil Service Commission. The request for hearing must be in writing and received in the Civil Service Commission Office within twenty (20) calendar days from the date of termination of appointment or from the date of mailing the notice of termination, whichever is later.

C. Automatic Resignation

An employee subject to the Civil Service Commission Rules who is separated by Automatic Resignation (Civil Service Commission Rule 22 Series) may appeal to the Commission if a request is filed in writing in the Civil Service Commission office within fifteen (15) calendar days of the mailing date of the *Notice of Automatic Resignation*. The fifteen (15) days includes the date on which the Notice was mailed. Where the Automatic Resignation is covered by a collective bargaining agreement, the Civil Service Commission will only consider appeals on future employability.

D. Resignation - Services Unsatisfactory

The Civil Service Commission will consider the future employability recommendations of a resigned employee whose services have been designated as unsatisfactory (Civil Service Commission Rule 22 Series) provided that a request for review is made in writing and is received in the Civil Service Commission office within twenty (20) calendar days of the date of mailing the *Notice of Separation* designating the services as unsatisfactory.

XI. Compensation Matters – VERY LIMITED Application

An action by the Human Resources Director on wage and salary matters may be appealed to the Civil Service Commission provided such appeal is received in the Civil Service Commission office by close of business on the seventh (7th) business day (excluding Saturday, Sunday and holidays) following the postmarked mailing date of notification to the appellant. The Commission's action on the appeal shall be final and no reconsideration request shall be allowed. This appeal does not cover matters provided for in a collective bargaining agreement.

XII. Examination Matters, Including Position-Based Testing and Background Rejections

An action by the Human Resources Director or agent on examination matters may be appealed to the Civil Service Commission office provided such appeal is received in the Commission office by close of business on the fifth (5th) business day (excluding Saturday, Sunday and holidays) following the postmarked mailing date of notification to the appellant. The appeal period shall be extended an additional five (5) working days (excluding Saturdays, Sundays, and holidays) where the notification to the appellant is sent exclusively by certified mail – return receipt requested. The Commission's action shall be final and no reconsideration request shall be allowed.

XIII. Discrimination Complaints

An appeal of the decision of the Human Resources Director on a discrimination complaint may be filed within thirty (30) calendar days of the postmarked mailing date of notification from the Human Resources Director to the complaining party. An appeal must be in writing and received within the allowable appeal period in the Civil Service Commission Office. The Commission's decision shall be final and no reconsideration request shall be allowed.

XIV. Personal Services Contracts

An appeal of the decision of the Human Resources Director on personal services contracts may be filed during the posting period prescribed in the Civil Service Commission Personal Services Contract Procedures. The Commission's action on the appeal shall be final and no reconsideration request shall be allowed. Personal Services Contracts not appealed during the prescribed posting period shall be calendared for ratification by the Commission. Ratification action by the Commission shall be final and no reconsideration

request shall be allowed.

XV. Other Matters

Where the Civil Service Commission Rules permit appeal of the Human Resources Director's decision or appeal of an action of the Executive Officer on matters other than those listed above; such actions may be appealed to the Commission provided such appeal is received in the Commission office within thirty (30) calendar days following the postmarked mailing date of notification to the appellant. The Commission's action shall be final and no reconsideration request shall be allowed.